

FILED 6/15/2020
 ED
 U.S. DISTRICT COURT
 24-HOUR DEPOSITORY

IN THE UNITED STATES DISTRICT COURT
 FOR THE DISTRICT OF NEW HAMPSHIRE

Sensa Verogna, Plaintiff,)
 v.) Case #: 1:20-cv-00536-SM
 Twitter Inc., Defendant.)

MEMORANDUM IN SUPPORT OF PLAINTIFF'S
 MOTION TO CONTINUE TO PROCEED ANNONOMOUSLY

1. Plaintiff, pro se and proceeding anonymously as, Sensa, respectfully moves this Court for an order permitting him to proceed anonymously so as to protect his identity from public disclosure for reasons of justifiable fear of others dangerous reactions or actions towards my family or myself. Plaintiff submits the following Memorandum of Law in support of his motion.

2. Plaintiff re-alleges and incorporates by reference each and every paragraph, tweet, article, exhibit or attachment included in the Complaint as though set forth fully herein.

3. Courts have allowed plaintiffs to proceed anonymously in cases involving real danger of physical harm which may occur as a result of the disclosure of Sensa's identity. Although a complaint must usually state the names of all parties, Fed. R. Civ. P. 10(a), "trial courts have always been afforded the power to seal their records when interests of privacy outweigh the public's right to know." In re Knoxville News-Sentinel Co., 723 F.2d 470, 474 (6th Cir. 1983) (citations omitted). This Court may excuse Plaintiff from filing under her own name if it finds that her privacy interests outweigh the typical presumption of keeping judicial proceedings open. Doe v. Porter, 370 F.3d 558, 560 (6th Cir. 2004).

4. Generally, Courts in this Circuit have used the same multifactor test used by the Third Circuit's multifactor test. See Dartmouth I, 2018 WL 2048385, at *4-5 (noting that the

“Third Circuit’s test is consistent with the overall aim of the First Circuit’s framework for sealing judicial records”); *Doe v. Standard Ins. Co.*, No. 1:15-cv-00105-GZS, 2015 WL 5778566, at *2–3 (D. Me. Oct. 2, 2015) (applying the Third Circuit test). In determining whether to permit a litigant to proceed anonymously, courts in this district consider: (1) whether the identity of the litigant has been kept confidential; (2) the reasons disclosure is feared or sought to be avoided, and the substantiality of these reasons; (3) the public interest in maintaining the confidentiality of the litigant’s identity, versus the public interest in knowing the litigant’s identity; (4) the undesirability of an outcome adverse to the litigant and attributable to his refusal to pursue the case at the price of being publicly identified; (5) whether the litigant has illegitimate ulterior motives; and (6) whether the opposition to the litigant’s use of a pseudonym by counsel, the public, or the press is illegitimately motivated. See *Doe v. Trustees of Dartmouth College*, No. 18-cv-040-LM, 2018 WL 2048385, at *4-5 (D.N.H. May 2, 2018) (quoting *Doe v. Megless*, 654 F.3d 404 (3d Cir. 2011)). The Second, Third, Fourth, and D.C. Circuits have adopted tests for this determination. See *Doe v. Trustees of Dartmouth Coll. (Dartmouth II)*, No. 1:18-cv-690-JD, 2018 WL 5801532, at *1–2 (D.N.H. Nov. 2, 2018).

5. With regards to this action, Plaintiff has kept his name confidential. When he has sought professional advice or other services such as a service processor, outside his home, he has secured the confidentiality of his true name as it relates to this case. (See Attached Declaration in Support). Defendants have to date, to the best of the plaintiff’s knowledge kept Plaintiff’s name confidential.

6. Sensa has young children and worries that disclosure of his real name may cause them harm, given their ages and vulnerability and inability to protect themselves. *Doe v. Blue Cross and Blue Shield of Rhode Island*, 794 F.Supp. 72, 74 (D.R.I. 1992), citing *Doe v. Rostker*, 89 F.R.D.

158, 161 (N.D.Col. 1981). Sensa's older children are just as vulnerable as they are out and about in public spaces.

7. Antifa group chants outside, vandalizes Fox commentator Tucker Carlson's home. <https://www.nbcnews.com/news/all/antifa-group-chants-outside-vandalizes-fox-commentator-tucker-carlson-s-n93413>

8. "Hate against Donald Trump's supporters sometimes gets swept under the rug." <https://www.usatoday.com/story/opinion/2019/03/12/recent-hate-against-trump-supporters-goes-unnoticed-talker/3139501002/>

9. "Liberals are now willing to target any Trump supporter for ruination." The message to anyone who dares not march in lockstep with liberalism." "You don't matter, and we will target you for ruination whenever we feel like it." <https://nypost.com/2019/08/08/liberals-are-now-willing-to-target-any-trump-supporter-for-ruination/>

10. Maxine Waters mocks: "I threaten Trump supporters 'all the time'". <https://thehill.com/homenews/house/405877-maxine-waters-i-threaten-trump-supporters-all-the-time>

11. Rap Sheet: ***639*** Acts of Media-Approved Violence and Harassment Against Trump Supporters. <https://www.breitbart.com/the-media/2018/07/05/rap-sheet-acts-of-media-approved-violence-and-harassment-against-trump-supporters/>

12. Members of the US Congress are "Outing" donors to Donald Trump inviting abuse from the public. <https://twitter.com/Castro4Congress/status/1158576680182718464/photo/1>

13. MN State Rep Was Among Antifa Mob Harassing Trump Supporters After Rally. Before the rally, a middle-aged woman, her husband, and her 75-year-old mother were harassed by the vicious mob as they made their way into the venue, the Minneapolis Star-Tribune reported.

74 https://www.lucianne.com/2019/10/12/mn_state_rep_was_among_antifa_mob_brharassing_trum
75 [p_supporters_after_rally_17593.html](https://www.lucianne.com/2019/10/12/mn_state_rep_was_among_antifa_mob_brharassing_trump_supporters_after_rally_17593.html)

76 14. The basis of Plaintiff's fears is that there are A LOT of unbalanced people in the
77 world and a lot of them hate President Trump Supporters. One of the Plaintiff's greatest fears
78 would be to be confronted by person or persons while taking his two young children out of the
79 vehicle or playing in the yard. His fears of keeping his children safe is what propels him to seek
80 this motion to proceed anonymously more precisely than previously stated in the Complaint, so as
81 to give it proper effect.

82 15. Federal courts have permitted parties to proceed under pseudonym in certain cases.
83 See Doe v. Trustees of Dartmouth Coll. (Dartmouth I), No. 18-cv-040- LM, 2018 WL 2048385,
84 at *7 (D. Mass. May 2, 2018). Neither the U.S. Supreme Court nor the First Circuit has
85 "definitively articulated" when a plaintiff may proceed under a pseudonym. See id. at *2

86 16. The First Circuit has emphasized that there must be a compelling countervailing
87 interest to justify limiting that access, though it has indicated that "privacy rights of participants
88 and third parties are among those interests which, in appropriate cases, can limit the presumptive
89 right of access to judicial records." Id. at 72 (internal quotations omitted); Dartmouth I, 2018 WL
90 2048385, at *3-4.

91 17. Because the public identification of the plaintiff would likely identify his young
92 children, who are not parties in the case weighs heavily against disclosure.

93 18. Plaintiff's name is already known to the Defendants would not hamper or hinder the
94 Defendants' ability to prepare and present a defense and would not be prejudiced in Plaintiff
95 proceeding anonymously but and if not allowed to continue to proceed anonymously would run
96 the risk of physical and/or mental harm to his family or himself.

19. The interests of Twitter and/or public will not be harmed at this early stage of the case if Sensa's name is not revealed. Sensa is prepared to address measures to protect the confidentiality of his identity should the Court require disclosure to the public at a later stage in the proceedings.

20. Plaintiff is not a public, state or local figure and is a self-employed blue-collar worker and with relatively few contacts beyond his family but because he is a white, republican who supports President Trump, plaintiff has real security concerns as people with these same characteristics have been harmed previously, and often, no matter the age of the victim.

21. To date, the US Press and the press as a whole has been silent in this case.

22. Plaintiff has no outstanding warrants and is not a felon.

23. Disclosure of Plaintiff's identity would reveal sensitive information, putting his family, indefensible children and himself at risk, so under the factors relevant in this Circuit, this Court should grant him this Motion to Proceed Anonymously.

For these reasons and such other reasons as may appear just to the Court, Plaintiff PRAYS THAT:


1. Plaintiff be allowed to continue proceeding anonymously as Sensa Verogna and that the Court issue a protective order or gag order to keep his family safe from even the slightest bit of harm.

2. In all publicly-filed documents, Plaintiff's true actual name shall only be identified as Sensa Verogna;

3. Under no other circumstances shall any party or any other person intentionally disclose Plaintiff, proceeding as Sensa Verogna's, identity without his written consent.

120 Respectfully,

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/s/ Plaintiff, Anonymously as Sensa Verogna
SensaVerogna@gmail.com

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CERTIFICATE OF SERVICE

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I hereby certify that on this 15th day of June 2020, the foregoing document was made upon the Defendant, through its attorneys of record to Jonathan M. Eck jeck@orr-reno.com and Julie E. Schwartz, Esq., JSchwartz@perkinscoie.com.

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